

**REMARKS**

Claims 1-26 are pending. Of these, claims 1, 11, 18, 19, 24 and 26 were amended. These amendments and remarks were made to further define Applicants' invention. Reconsideration of this application in light of the amendments and the following remarks is requested. No new matter was added.

The Examiner rejected claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinitsky et al. in view of Murad, Herstein and Taylor et al.

Claim 1 recites: "A topical composition comprising: at least about 5.0% (w/v) ascorbic acid; and water, wherein the composition has a pH of more than 3.5."

In contrast, Shinitsky et al., Murad, Herstein, and Taylor et al., individually, and in combination do not teach or suggest the present invention as recited by claim 1. For example, none of the references teach or suggest having a composition of ascorbic acid and water with the composition having a pH of more than 3.5 as recited in claim 1. In fact, the prior art suggests a complete break-down of ascorbic acid in higher pHs like 3.5. Consequently, none of the cited art suggests a pH as high in a solution as recited in claim 1. On the contrary, a composition such as the one recited by claim 1 is completely unexpected from all that has been written in the art about ascorbic acid. Therefore, claim 1 is clearly patentable over Shinitsky et al. in view of Murad, Herstein and Taylor et al.

In addition, since claims 2-17 are dependent on claim 1, claims 2-17 are also patentable over Shinitsky et al. in view of Murad, Herstein and Taylor et al. for at least the same reasons as claim 1.

Claim 18 recites: "A topical composition comprising: an aqueous solution including at least about 5.0% (w/v) ascorbic acid, wherein the composition has a pH of more than 3.5."

In contrast, Shinitsky et al., Murad, Herstein, and Taylor et al., individually, and in combination do not teach or suggest the present invention as recited by claim 18. For example, none of the references teach or suggest having a topical composition of an aqueous solution including ascorbic acid with the composition having a pH of more than 3.5 as recited in claim 18. In fact, as stated earlier, the prior art suggests a complete break-down of ascorbic acid in higher

pHs like 3.5. Thus, none of the cited art suggests a pH as high in a solution as recited in claim 18. On the contrary, a composition such as the one recited by claim 18 is completely unexpected from all that has been written in the art about ascorbic acid. Accordingly, claim 18 is also clearly patentable over Shinitsky et al. in view of Murad, Herstein and Taylor et al.

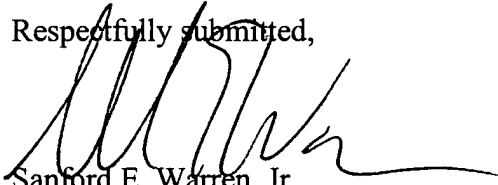
Moreover, since claims 19-25 are dependent on claim 18, claims 19-25 are also patentable over Shinitsky et al. in view of Murad, Herstein and Taylor et al. for at least the same reasons as claim 18.

Claim 26 recites: "A topical composition comprising: an aqueous solution including at least about 5.0% (w/v) ascorbic acid, wherein about 10% to about 50% of the ascorbic acid is pretreated ascorbic acid; a non-toxic zinc salt; and a tyrosine compound, wherein the composition has a pH of more than 3.5."

In contrast, Shinitsky et al., Murad, Herstein, and Taylor et al., individually, and in combination do not teach or suggest the present invention as recited by claim 26. For example, none of the references teach or suggest having a topical composition of an aqueous solution including pretreated ascorbic acid with the composition having a pH of more than 3.5 as recited in claim 26. In fact, as stated earlier, the prior art suggests a complete break-down of ascorbic acid in higher pHs like 3.5. Consequently, none of the cited art suggests a pH as high in a solution as recited in claim 26. On the contrary, a composition such as the one recited by claim 26 is completely unexpected from all that has been written in the art about ascorbic acid. Thus, claim 26 is also clearly patentable over Shinitsky et al. in view of Murad, Herstein and Taylor et al.

Applicant respectfully submits that the claims are now in condition for allowance. However, should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

  
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**VERSION WITH MARKINGS TO SHOW CHANGES MADE  
PURSUANT TO 37 C.F.R. 1.121(c)(ii)**

1. (Amended) A topical composition comprising:  
at least about 5.0% (w/v) [pretreated] ascorbic acid; and  
water, wherein the composition has a pH of more than 3.5.
11. (Amended) The composition of claim 1, further comprising about 0.5% to about 5% (w/v) of a non-toxic zinc salt.
18. (Amended) A topical composition comprising:  
an aqueous solution including at least about 5.0% (w/v) ascorbic acid, wherein [about 10% to about 50% of the ascorbic acid is pretreated ascorbic acid] the composition has a pH of more than 3.5.
19. (Amended) The composition of claim 18, wherein [the aqueous solution has a pH of more than about 3.5] about 10% to about 50% of the ascorbic acid is pretreated ascorbic acid.
24. (Amended) The composition of claim 18, comprising about 15% to about 25% (w/v) ascorbic acid.
26. (Amended) A topical composition comprising:  
an aqueous solution including at least about 5.0% (w/v) ascorbic acid, wherein about 10% to about 50% of the ascorbic acid is pretreated ascorbic acid;  
a non-toxic zinc salt; and  
a tyrosine compound, wherein the composition has a pH of more than 3.5.